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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,181	08/25/2003	Dennis H. Hancock		1536

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,181

Applicant(s)

HANCOCK ET AL.

Examiner

Justin M. Larson

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/29/04, 12/28/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 33, 40, and 58.
2. The drawings are also objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "38" has been used to designate both the splined base of the cantilever support of page 5 and the bolt of page 6.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

Art Unit: 3727

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

4. The disclosure is objected to because of the following informalities:

Sections/headings are underlined and/or in bold. Please note, "Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading." Also, the letter "o" has somehow been omitted from the word "connector" on page 5, line 2. Appropriate correction is required.

Claim Objections

5. Claim 1 is objected to because of the following informalities: In line 1, the word "All" has been capitalized and should be rewritten as "all". Appropriate correction is required.

Claim 3 is objected to because of the following informalities: The letter "o" has somehow been omitted from the word "portable" in line 1. Appropriate correction is required.

35 USC § 112, 6th Paragraph

6. Claims 1-3 are written in "means plus function" form and since they meet the analysis set forth in MPEP 2181, the Examiner assumes that applicant wishes to invoke 35 USC § 112, paragraph 6.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1 and in light of the specification, it is unclear as to why the connector member in line 6 is claimed to include a means to connect it at selected rotational angles to the base support when the lower end (34) of the connector member has been disclosed as being shaped to conform to and fit closely over post (22) of the

base support (16) ([00033]), suggesting that the connector member is not rotational with respect to the base support.

Furthermore, it is unclear as to what the applicant considers the 'means to connect' of line 7 to be, considering the bracket member is not directly connected with a connection that allows rotational angles - the cantilever support is - and also the claim fails to specify just what the 'means to connect' is connecting the bracket holder to.

Finally, the way line 9 is worded, i.e. "base support, connector member with bracket holder", renders it unclear as to which components of the invention for which the 'means to lock' of line 8 is intended to prevent rotational movement. It is unclear whether applicant intends it to read "base support, connector member, and bracket holder" which could imply all three components are locked against rotational movement with respect to one another, or "base support and connector, and bracket holder" which could imply the base support and connector are together blocked against rotational movement with respect to the bracket holder.

To the best of understanding, Examiner reasons that the above mentioned portions of claim 1 are intended to cover the content of page 5, lines 2-4. This reasoning can suggest two things: 1.) The 'means to connect' of claim 1, lines 6 and 7 are in fact the bolts connecting the corresponding components of the invention and the 'means to lock' of line 8 is in fact the splines (36&33) of the connector member and cantilever support; or 2.) The 'means to connect' of lines 6 and 7 and also the 'means to lock' of line 8 are all in fact the splines (36&33) of the connector member and cantilever support. Because the claim repeatedly states the 'rotational angle' feature, Examiner

assumes the 'means to connect' of lines 6 and 7 and also the 'means to lock' of line 8 are all in fact the splines (36&33). This assumption forms a basis for the rejections that follow in this Office Action.

It is suggested that the words "securement means to connect" and "means to lock" be worked into the specification in order to distinctly point out just what features of the invention these terms are intended to represent in the claims.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hatcher (3,193,232) in view of Williams, Jr. (6,793,108) and Roberts (4,827,654), and further in view of Gates et al. (6,945,441). Hatcher discloses a vehicle portable radio mount comprising a base support (13) including clamping means (11) for clamping to the handlebar of a vehicle (Figure 1) and a bracket holder including means (20&23) to secure a two-way radio thereto, but fails to disclose a connector member including securement means to connect at selected rotational angles to the base support and securement means to connect the bracket holder at selected rotational angles and means to lock the base support, connector member with bracket holder against rotational movement with respect to one another.

Williams, Jr. and Roberts, however, both disclose related article carriers that mount some sort of device to a surface, the surfaces specifically being a round bar resembling a handlebar and a flat surface, respectively, and teach that it is desirable for such a mounts be adjustably moveable in one or more directions. While the mount taught by Williams, Jr. appears to provide too wide of a range of motion, one that might possibly interfere with a driver when the device is mounted to a handlebar, the mount of Roberts provides a convenient range of rotation, allowing for plenty of adjustability without causing excessive displacement of the device which might possibly interfere with a driver when the device is mounted to a handlebar. The mount of Roberts comprises a connector member (36) including securement means (48) to connect at selected rotational angles to the base (56) and means to lock (also 48) the base support, connector member with bracket holder (10) against rotational movement with respect to one another.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the mounting structure of Hatcher with a mounting structure such as that taught by Roberts, in order to allow the user to adjust the position or orientation of the portable radio to their liking, as motivated by both Williams, Jr. and Roberts. To do so, one would simply have to implement the attachment member (30) of Roberts to the bottom face of Hatcher's bracket holder in place of clamping means (11).

After implementing the mounting structure of Roberts onto the bracket holder of Hatcher, the mount lacks an adequate clamping means for mounting to a handlebar. It would be desirable to one of ordinary skill in the art to somehow modify the base

support of Hatcher in view of Roberts so that the mounting structure worked with a handlebar.

Now, Gates et al. discloses a mounting structure (Figure 1) comprising a mounting post (14) that is inserted into a base support (12) just as Roberts' mounting post (36) was inserted into a base support (56); the base support of Gates et al. including clamping means (22) which is capable of attaching to a handlebar. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the base support of Hatcher in view of Roberts with one such as that taught by Gates et al. so that the mounting structure could be mounted to a vehicle's handlebars.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Hatcher in view of Williams, Jr. and Roberts, and further in view of Gates et al. which is capable of being used in the intended manner, i.e., to mount to an all terrain vehicle. There is no structure in Hatcher in view of Williams, Jr. and Roberts, and further in view of Gates et al. that would prohibit such functional intended use (see MPEP 2111).

11. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above in view of Marshall (3,286,892). The art as applied to claim 1 above discloses the claimed invention including a backing plate (18, Hatcher) and a foot plate (19, Hatcher) extending at a right angle to one edge of the backing plate, and attachment means (21) spaced along one side of the backing plate, but fails

to disclose hooks spaced along an opposite side of the backing plate to which the elastic band (20) is stretchable to and connected to.

Marshall, however, discloses a bracket (15) for retaining an article (F) thereon with an elastic band (18), and teaches that the elastic band can be fastened to the bracket holder using two types of connections. One connection (17) securely holds an end of the band to one side of the bracket while the band is stretched and secured to the opposite side of the bracket, held to the opposite side by a hook (19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bracket holder of the art as applied to claim 1 above by replacing the slots (22, Hatcher) along one side of the bracket holder with hooks, as taught by Marshall, in order to have one end of the straps securely held in place by slots (21, Hatcher) and have the other end be easily detachable, allowing the user to quickly remove the portable radio if need be.

Regarding claim 3, the art as applied to claim 1 above discloses the claimed structure, including a post (23, Gates et al.) having a non-circular outer surface at its midsection (25), an interiorly threaded bore (col. 5 lines 52-55), a pair of spaced apart holes extending through the post transverse the interiorly threaded bore, and a U-bolt (22) having legs (24) inserted through the spaced apart holes and nuts (26) threaded onto the legs.

Allowable Subject Matter

12. Claims 4-8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion


13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on M-Th 7-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JML


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER